

HOUSE COMMITTEE AMENDMENTS

Amendments proposed by House Committee on Civil Law and Procedure to Engrossed Senate Bill No. 70 by Senator Murray

AMENDMENT NO. 1

On page 1, line 2, after "3421" insert a comma and delete the remainder of the line and at the beginning of line 3, delete "paragraph)," and insert "3431(A)(introductory paragraph), and 3432(A)(8) and (9), to enact Code of Civil Procedure Article 3432.1,"

AMENDMENT NO. 2

On page 1, line 3, after "3422.1(G)" and before the comma insert "and 3432(A)(10)"

AMENDMENT NO. 3

On page 1, line 8, after "3421" insert a comma and delete the remainder of the line and delete line 9 in its entirety and insert "3431(A)(introductory paragraph), and 3432(A)(8) and (9) are hereby amended and reenacted and Code of Civil Procedure Article 3432.1 is hereby enacted to read as follows:"

AMENDMENT NO. 4

On page 2, between lines 6 and 7, insert the following:

Art. 3432. Affidavit for small succession; contents

A. When it is not necessary under the provisions of Article 3431 to open judicially a small succession, at least two persons, including the surviving spouse, if any, and one or more competent major heirs of the deceased, may execute one or more multiple originals of an affidavit, duly sworn before any officer or person authorized to administer oaths in the place where the affidavit is executed, setting forth:

* * *

~~(8) An attachment consisting of certified copies of the testament and the probate order of another state, if the affidavit is being used in lieu of an ancillary probate proceeding.~~

~~(9) An affirmation that, by signing the affidavit, the affiant, if an heir, has accepted the succession of the deceased; and~~

~~(10)(9) An affirmation that, by signing the affidavit, the affiants swear under penalty of perjury that the information contained in the affidavit is true, correct and complete to the best of their knowledge, information, and belief.~~

* * *

Art. 3432.1. Affidavit for small succession for a person domiciled outside of Louisiana who died testate; contents

A. When it is not necessary under the provisions of Article 3431 to open judicially a small succession, at least two persons, including the surviving spouse, if any, and one or more competent legatees of the deceased, may execute one or more multiple originals of an affidavit, duly sworn before any officer or person authorized to administer oaths in the place where the affidavit is executed, setting forth all of the following:

(1) The date of death of the deceased, and his domicile at the time thereof.

(2) The fact that the deceased died testate.

(3) The marital status of the deceased, the location of the last residence of the deceased, and the name of the surviving spouse, if any, and

the surviving spouse's address, domicile, and location of last residence, together with the names and last known address of the legal heirs of the deceased, and identifying those of the legal heirs who are also forced heirs of the deceased.

(4) The names and last known addresses of the legatees of the deceased, and the statement that a legatee not signing the affidavit was given ten days notice by U.S. mail of the affiants' intent to execute an affidavit for small succession and did not object.

(5) A description of the property left by the deceased, including whether the property is community or separate, and which, in the case of immovable property, must be sufficient to identify the property for purposes of transfer.

(6) A showing of the value of each item of property subject to the jurisdiction of the courts of Louisiana, and the aggregate value of all such property, at the time of the death of the deceased.

(7) A statement describing the respective interests in the property which each legatee has inherited and whether a legal usufruct of the surviving spouse attaches to the property.

(8) An attachment consisting of certified copies of the testament and the probate order of another state.

(9) An affirmation that, by signing the affidavit, the affiant, if a legatee, has accepted the legacy of the deceased.

(10) An affirmation that, by signing the affidavit, the affiants swear under penalty of perjury that the information contained in the affidavit is true, correct, and complete to the best of their knowledge, information, and belief.

B. If the deceased had no surviving spouse, the affidavit must be signed by at least two persons who have actual knowledge of the matters stated therein.

C. In addition to the powers of a natural tutor otherwise provided by law, a natural tutor may also execute the affidavit on behalf of a minor child without the necessity of filing a petition pursuant to Article 4061."

AMENDMENT NO. 5

On page 2, line 7, change "3422.1(G) is" to "3422.1(G) and 3432(A)(10) are"